**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)

26403.0004

In re Application of: Ross C. Terrell

Application No.: 10/644,500

Filed: August 20, 2003

For: Method For The Preparation Of Sevoflurane

The owner\*, Minrad Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 5,969,193. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

Martin G. Linihan 24,926  
Signature Date

Martin G. Linihan Reg. No. 24,926  
Typed or printed name

716 848 1367

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

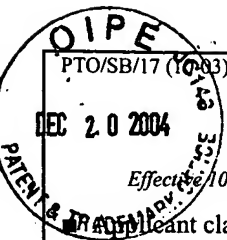
This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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(Terminal Disclaimer to Obviate a Double Patenting Rejection over a Prior Patent (PTO/SB/26) [9-4.2]—page 1  
of 1)

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PTO/SB/17 (10-93) Approved for use through 07/31/2006, OMB 0651-0032

**FEE TRANSMITTAL  
for FY 2004**

Effective 10/01/2003. Patent Fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27.

Application Number	10/644,500
Filing Date	August 20, 2003
First Named Inventor	Ross C. Terrell
Examiner Name	M. Shippen
Group/Art Unit	1621
Attorney Docket Number	26403.0024

TOTAL AMOUNT OF PAYMENT (\$65.00)

METHOD OF PAYMENT (check all that apply)						FEE CALCULATION (continued)					
<input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None						3. ADDITIONAL FEES					
■ Deposit Account: Deposit Account Number: 08-2442 Deposit Account Name: Hodgson Russ LLP											
The Director is hereby authorized to (check all that apply)											
■ Charge fee(s) indicated below											
■ Charge any fee deficiencies or credit any overpayments											
<input type="checkbox"/> Charge any additional fees during pendency of this application.											
<input type="checkbox"/> Charge fees indicated below, except for the filing fee to the above-identified deposit account											
FEE CALCULATION											
1. BASIC FILING FEE											
Large Entity Small Entity											
Fee Fee Fee Fee Fee Description Fee Paid											
Code (\$) Code (\$) Code (\$) Code (\$) Code (\$) Code (\$) Code (\$)											
1001 790 2001 395 Utility filing fee \$						1251 110 2251 55 Extension for reply within first month \$					
1002 350 2002 175 Design filing fee \$						1252 430 2252 215 Extension for reply within second month \$					
1003 550 2003 275 Plant filing fee \$						1253 980 2253 490 Extension for reply within third month \$					
1004 790 2004 395 Reissue filing fee \$						1254 1,530 2254 765 Extension for reply within fourth month \$					
1005 160 2005 80 Provisional filing fee \$						1255 2,080 2255 1,040 Extension for reply within fifth month \$					
SUBTOTAL (1) \$0						1401 300 2401 150 Notice of Appeal \$					
2. EXTRA CLAIM FEES FOR UTILITY/ REISSUE											
Extra Fee from											
Claims below											
Total Claims / / -20** = / / x / / = \$						1402 340 2402 170 Filing a brief in support of an appeal \$					
Independent Claims / / - 3** = / / x / / = \$						1403 300 2403 150 Request for oral hearing \$					
Multiple dependent / / x / / = \$						1451 1,510 2451 1,510 Petition to institute a public use proceeding \$					
						1452 110 2452 55 Petition to revive - unavoidable \$					
Large Entity Small Entity											
Fee Fee Fee Fee Fee Description Fee Paid											
Code (\$) Code (\$) Code (\$) Code (\$) Code (\$) Code (\$) Code (\$)											
1202 18 2202 9 Claims in excess of 20 \$						1501 1,370 2501 685 10 advance copies \$					
						1502 490 2502 245 Utility issue fee (or reissue) \$					
1201 88 2201 44 Independent claims in excess of 3 \$						1503 660 2503 330 Design issue fee \$					
1203 300 2203 150 Multiple dependent claim if not paid \$						1504 130 2504 130 Plant issue fee \$					
1204 88 2204 44 **Reissue independent claims over original patent \$						1460 130 2460 130 Petitions to the Commissioner \$					
1205 18 2205 9 **Reissue claims in excess of 20 and over original patent \$						1807 50 2807 50 Processing fee under 37 CFR 1.17(q) \$					
						1806 180 2806 180 Submission of Information Disclosure Statement \$					
SUBTOTAL (2) \$0						8021 40 8021 40 Recording each patent assignment per property (times number of properties) \$					
SUBMITTED BY: Martin G. Linihan Reg. No. 24,926						1809 790 2809 395 Filing a submission after final rejection(37 CFR 1.129(a)) \$					
SIGNATURE <i>Martin G. Linihan</i>						1810 790 2810 395 For each add'l invention to be examined(37 CFR 1.129(b)) \$					
DATE: December 17, 2004 Telephone: (716) 848-1367						1801 790 2801 395 Request For Continued Examination (RCE) \$					
						1802 900 2802 900 Request for Expedited Examination of a design application \$					
						Other fee (specify) Terminal Disclaimerr \$65					
						*Reduced by basic filing fee paid SUBTOTAL (3) \$65					

I hereby Certify that this Correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on December 17, 2004

Name Martin G. Linihan

Signature

Date of Signature December 17, 2004

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